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SUBJECT: CONGRESSMAN LEVIN'S FACT FINDING MISSION ON U.S.-
PERU TRADE AGREEMENT

REF: LIMA 246

¶1. (SBU) Summary: Congressman Sandy Levin (D-Michigan) discussed the impact of a future Trade Promotion Agreement in Peru with a broad spectrum of government, private sector, NGO, labor, academic and Catholic Church leaders. The Congressman met twice with President Toledo, the second time to discuss his findings on three issues: access to medicines; displacement of subsistence agricultural farmers; and labor conditions. On the latter two, the Congressman noted the different views he had heard and his desire to study the issues further. President Toledo and other trade agreement advocates urged the Congressman to support the U.S. trade accord, emphasizing that the best way to reduce poverty in Peru is through sustained economic growth, new investment, and the creation of jobs in the formal sector. End Summary.

¶2. (SBU) During his January 21-26 visit to Peru, Congressman Levin met with a wide cross section of society including government officials (President Toledo, Trade, Labor, and Foreign Ministers, Chief Trade Negotiator, Members of Congress); U.S. and Peruvian Private Sector (AmCham Board of Directors and private companies); NGOs (Foro Salud, CEDAPAL, Catholic Church-affiliated organizations); a pharmaceutical association affiliated with Phrma (Alafarpe); ILO officials and labor leaders (CGTP, CUT, Mining and Telecommunication workers); industry and trade associations (SNI, Comex and Adex); importer of U.S. fruits and small farmers association (Conveagro); think tanks (IPE, APOYO, Macroconsult); and Catholic Church representatives, notably Bishop Pedro Barreto. Congressman Levin, who made no media statements, explained that he was in Peru to learn about its economic reality and the potential impact of a U.S. free trade agreement.

GOP: Trade Accord Essential for Peru's Development

¶3. (SBU) In their first meeting on January 23, President Toledo emphasized that the best policies to reduce poverty are through new jobs and education. He highlighted how Peru's 53 consecutive months of economic growth and the 6.3 percent GDP growth in 2005 -- a record in the region -- has reduced poverty, which still remains too high. Toledo said that he knows poverty, as he came from there: one of 16 children, seven of whom died in their first year. Through

education, he had options, including teaching at Harvard. Toledo said that increased trade and growth generates income for the state, which permits the government to fulfill its key role of investing in health and education.

¶4. (SBU) The President agreed with Congressman Levin that economic growth and international trade should generate equity and better distribution of the benefits, noting that Peru's progress has produced applause on Wall Street, but it needs more applause on "Main Street." The President emphasized that trade and investment is not for the rich only. However, if the quality of life of the poor does not improve, expectations are dashed and democracy loses.

¶5. (SBU) President Toledo asked for the Congressman's support in approving Peru's trade agreement with the United States. He emphasized that the accord would create new jobs and accelerate GDP growth as well as help reduce coca production. The President noted how Peru with its 148 micro-climates has diversified and increased the number of jobs for the poor growing asparagus, grapes, lemons, and artichokes, among other products.

¶6. (SBU) Congressman Levin explained that he was on a fact finding mission to learn and encourage discussion of the trade accord and its impact in Peru. He lamented the breakdown of bipartisanship on trade in Congress, and that Members often chose sides on trade agreements too quickly. He highlighted his work on the African Growth and Opportunity Act (AGOA) and the Caribbean Basin Initiative (CBI), emphasizing that the framework for increased trade should maximize the equitable distribution of benefits.

Toledo Sought Second Meeting

¶7. (SBU) Congressman Levin discussed three issues in a wrap up session on January 25 that President Toledo had requested: access to medicines, labor conditions, and agriculture. The Congressman told the President that, while he did not like certain IPR provisions in the U.S.-Peru Trade Promotion Agreement (notably data protection), he did not find the medicine access issue to be a significant problem.

¶8. (SBU) Congressman Levin noted a divergent number of views on labor conditions in the country and a worrisome subcontracting policy. The Congressman asked to be in further contact on labor issues with Peruvian authorities. The Congressman added that he also heard different views on agriculture, notably from the small farmers association, Conveagro. He wanted to learn more about the potential displacement of rural subsistence farmers under a trade agreement and how the government intended to deal with this potential problem.

¶9. (SBU) President Toledo thanked Congressman Levin for taking the time to understand the issues and exchanging views with those with different perspectives. He agreed about the importance of labor rights, noting that his administration has incurred considerable fiscal expense rectifying unjust firings by the Fujimori administration. The President assigned Ambassador Eduardo Ferrero in Washington and Trade Minister Alfredo Ferrero to coordinate with the Congressman on labor concerns.

Private Sector: U.S. Trade to Generate Jobs and Benefits

¶10. (U) Representatives of think tanks, trade associations, and the private sector argued that a U.S. free trade agreement would bring several benefits to Peru. Think tank analysts Fritz DuBois (IPE) and Guillermo Arbe (APOYO) highlighted clearer rules of the game for investors; lower costs with customs reforms (48-hour processing or less); increased transparency with pre-publication comment periods for new regulations; a strengthening of government

institutions; and improved investor confidence with reliable dispute settlement mechanisms. Given Peru's small capital and internal markets, DuBois indicated that expanding an export-led growth strategy would be the quickest means to create new jobs and reduce poverty.

¶11. (U) Amcham Directors emphasized that a U.S. trade agreement would attract new private investment, enhancing stability and confidence in Peru. Moreover, an agreement would move many informal workers (roughly 60 percent of Peru's workforce) into formal, export-related employment, contributing to better labor standards. Currently there is considerable competition between the formal and informal economies, the latter of which does not generate tax revenues nor protect workers' rights. Informal vendors of gasoline, for example, do not abide by environmental standards and notably undercut the prices of established fuel retailers, such as Exxon-Mobil.

Free Trade Agreement Preferable to ATPDEA

¶12. (SBU) Chief Trade Negotiator Pablo de la Flor explained that a trade deal is far superior to the renewal of ATPDEA benefits, which he noted are temporary and can be withdrawn at any time at the instigation of special interests groups. Without a trade agreement, investors would not have the certainty to commit to new projects.

¶13. (U) IPE analyst DuBois noted that making ATPDEA benefits permanent through a trade deal would solidify new investment. Peru's recent export boom has been accomplished by maximizing installed capacity; in the short term, there has been little construction of new plants, he said. With a trade deal, private investors would expand and build new facilities, largely because of the expansion of

opportunities, such as the export of textiles (not covered by ATPDEA) and the certainty a trade agreement represents.

Congressmen: Trade Helps Against Terrorism and Narcotics

¶14. (SBU) Congressmen Luis Iberico (FIM) and Adolfo La Torre (Peru Posible) highlighted the importance of the U.S. trade agreement to counter the threat of terrorism and narcotics trafficking. LaTorre noted that coca is grown in the poorest areas of Peru; the trade agreement would help generate jobs and discourage people from migrating to these areas. Both LaTorre and Iberico warned of the dangers posed by Presidential candidate Ollanta Humala, a former military officer with views similar to Hugo Chavez and Evo Morales in Bolivia. A trade deal would serve as a strategic counterweight to Chavez in the region.

¶15. (SBU) Regarding timing for the accord's approval, both Congressmen agreed that the current Peruvian Congress should review the trade deal -- not the one inaugurated on July 28. Iberico stated that many Members of Congress have participated at the negotiating rounds and are familiar with the commitments in the accord. LaTorre, who heads the Foreign Trade Commission, estimated that the vote on the accord would occur between Presidential electoral rounds, sometime between April 9 and May 7.

Labor: Conditions Improving, Union Leaders Disagree

¶16. (SBU) Government officials stated that Peru abides by core labor standards, and that ILO reports have been encouraging about progress being made. While noting that Peru is still a developing country, they argued that as investment and employment continue to increase, so will labor conditions. Chief Trade Negotiator de la Flor stated that there are more than 750,000 jobs tied to U.S. trade; this growing and positive trend would accelerate under a trade agreement, which is key to Peru's transformation. De la Flor noted that the export sector in general has a good

track record abiding to labor legislation.

¶17. (U) Representatives of the National Society of Industries (SNI) and export associations (ADEX and COMEX) highlighted how the U.S. trade deal would create more formal sector jobs that generate tax revenues for the government and better working conditions and wages for workers. Businesses that want to export or import from the United States would have to comply with Peruvian labor laws and pay taxes using employer identification numbers, which would permit GOP agencies to track their activities.

¶18. (U) At the AmCham meeting, the Marriott General Manager noted how his hotel's presence since 2000 has raised standards in the service sector, which tended in the past not to pay workers on time nor abide by labor regulations. After a \$400 million investment, Nextel's General Manager indicated that his company's business is growing as informal small firms are increasingly joining the formal economy and gaining access to credit for the first time. Consultant Luis Bustamante challenged the assertion that laborers are exploited in Ica, a beneficiary of the export boom of asparagus. He said that over the past 10 years, he has personally seen a dramatic improvement in labor conditions.

¶19. (U) Labor leaders and affiliates of the Peruvian Confederation of Workers (CGTP) told Congressman Levin that labor rights are not enforced in Peru and they lack confidence in the Toledo administration, claiming he has continued Fujimori's lower labor standards. In the formal economy, they criticized sub-contracting by which employers avoid providing full benefits. They noted that 90 percent of all bank tellers are hired as sub-contractors. One leader lamented that 60 percent of the workers are from the informal sector, where they are mistreated and have no rights.

¶20. (U) While one CGTP leader did not oppose the U.S. trade agreement, others did, claiming that the workers did not

participate in the negotiations. They indicated they could not afford travel to negotiating rounds to observe, but admitted they chose not to attend the two rounds in Lima. ILO representatives noted that many workers had limited information about the trade agreement.

Agriculture: Export Successes and Sensitive Products

¶21. (SBU) Peru's Chief Trade Negotiator Pablo de la Flor emphasized that for the first time in more than 20 years, the income gap between the regions and the capital are narrowing. He attributed this trend to job creation associated with ATPDEA outside of Lima, notably export crops such as beans, asparagus, artichokes, and fruits. AmCham Directors highlighted the success of grape and asparagus production in southern Ica, for example, where there is full employment and many workers are migrating from poorer sierra locations to benefit from employment.

¶22. (SBU) Trade Minister Alfredo Ferrero emphasized how agriculture and apparel production (which stimulated local cotton production) have been key contributors to Peru's meteoric export boom. Since 2001, when Toledo became President, Peru's exports more than doubled to \$17 billion. Sensitive agriculture products, such as corn, will have longer tariff phase outs and the government will compensate producers with a reconversion fund. He noted that half of Peru's corn consumption currently comes from Argentina.

¶23. (U) Representatives of the small farmers association, Conveagro, told the Congressman that while they do not oppose a U.S. trade deal, they oppose signing one now because of the distortions caused by U.S. agricultural subsidies. In Peru there are no credits, research or organizations that support agriculture production. Conveagro President Luis Zuniga emphasized that 90 percent of Peru's total agriculture production (including the

sensitive corn, wheat, rice, sugar, cotton, beef, dairy, and coffee) are for the domestic market. He argued that if these products are imported from the United States without duties, Peruvian products would not be able to compete and poverty could increase as a result of declining production.

Medicines: Data Protection Was Main Concern

¶24. (U) Carlos Franke of Foro Salud, a Peruvian NGO that follows public health issues, told the Congressman that one of the most controversial parts of the trade agreement was data protection in the IPR chapter. Franke highlighted the results of one of three studies that analyzed the impact of data protection in Peru; he cited a Health Ministry study that claimed the prices of medicines would increase significantly, doubling in 10 years to an estimated \$300 million. He added that the trade accord would enlarge monopoly power and raise prices of new drugs that enjoy data protection. He said Peru already had high prices of medicines because the market is small and doctors prescribe brand name medicines.

¶25. (U) Regarding other issues in the IPR chapter, Franke stated that Peru has a "best efforts" commitment to permit the patenting of plants. He noted that the Doha exceptions would apply to data protection, although it is mentioned in a side letter. While noting that for the first time in a trade accord biodiversity and traditional knowledge are mentioned, he stated that the text does not resolve anything and that it is not an important advance.

¶26. (U) On the negotiations process, Franke said that the government and big companies dominated participation, and that the NGOs were partially informed. He noted, however, that he knew six months ago that the Peruvian Government was going to accept 5 years for data protection.

Access to Medicines: Three Studies, Impact Minimal

¶27. (U) In a meeting with Alafarpe, a pharmaceutical research and development association of 19 companies in Peru (most foreign companies), the Chairman Antonio Pratto and its legal counsel Carlos Fernandez Davila described the minimal impact that data protection would have on the cost of medicines in Peru. They noted that since the 2002 implementation of data protection in Colombia, prices of medicines have not increased. In Peru generic medicines are readily available, as only 10 of 5,000 medicines have patent protection.

¶28. (U) Fernandez Davila described three Peruvian studies on the impact of the trade agreement on the drug market. In the Apoyo analysis, commissioned by the Trade Ministry, Peru would experience a loss of \$4 million per year in the worst case scenario (equivalent to less than 1 percent of the drug market). The study by the IPR administrative agency (INDECOPI) estimated that the loss of welfare would total \$3.5 million per year.

¶29. (U) Alafarpe took issue with the Health Ministry study, noting that the analysis made unsubstantiated assumptions (claiming that after 7-13 years, the impact would reach \$160 million). Fernandez Davila noted that the Health Ministry assumed that patented medicines would constitute 42 percent of Peru's entire drug market (today it is less than 2 percent). Fernandez Davila stated that not even in the United States, where patent protection is most prevalent, does that figure even come close to the Ministry estimate.

¶30. (U) When asked how the pharmaceutical companies would benefit from the trade accord, Alafarpe representatives indicated that the agreement would force Peru to strengthen regulations on drug quality; remove domestic industry protection policies that raise prices for consumers (by eliminating 12 percent tariff on imported medicines and 20

percent preference for local drug manufacturers in government procurement bids); and reduce unfair commercial practices. In practice, Peru provides no data protection even though the country's legislation provides for it, they noted.

Comment: Useful and Informative Visit

¶31. (SBU) Congressman Levin's visit to Peru generated useful discussion among supporters and opponents of the U.S. trade agreement. President Toledo's request for a second meeting with the Congressman was highly unusual, demonstrating the importance he places on a trade accord with the United States. Post would encourage other Members of Congress to make similar fact finding visits to better understand the impact of a free trade agreement in Peru.

¶32. (U) Congressman Levin did not review this cable.

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